

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

AMERICREDIT FINANCIAL	)	
SERVICES,	)	
Appellant,	)	
	)	
v.	)	No. 3:08-CV-00137
	)	(VARLAN/GUYTON)
RUPERT JACK LIEBOLD,	)	
CHRISTY JAYNE LIEBOLD, debtors	)	
And GWENDOLYN M. KERNEY,	)	
Trustee	)	
Appellees.	)	
	)	
	)	

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**AGREED JUDGMENT**

Come now the parties, AmeriCredit Financial Services, ("AmeriCredit"), Appellant; Rupert Jack Liebold and Christy Jayne Liebold, ("Debtors") Debtors/Appellees; and Gwendolyn M. Kerney, Chapter 13 Trustee/Appellee ("Trustee"), by and through counsel and would state unto the Court that the parties are in agreement as represented by signature of counsel below that an Agreed Judgment should be entered in this matter as follows:

On January 18, 2008, AmeriCredit filed an appeal from the order of the United States Bankruptcy Court for the Eastern District of Tennessee entered on January 9, 2008, which overruled the Objection to Confirmation filed by AmeriCredit and held that the debtors could surrender their vehicle in full satisfaction of AmeriCredit's claim under 11 U.S.C. §1325(a)(5) as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), effective on October 17, 2005. Thereafter, based upon its previous ruling, the Bankruptcy Court entered an order confirming the debtors' plan on February 25, 2008. On

March 3, 2008, AmeriCredit appealed the order of the Bankruptcy Court confirming the debtors' plan. The appeals were transmitted to this Court on April 10, 2008. The appeal filed on January 18, 2008, was docketed as case number 3:08-cv-00137. The appeal filed on March 3, 2008, was docketed as case number 3:08-cv-00138.

At the time that the appeals were docketed, this issue was on appeal in the United States Court of Appeals for the Sixth Circuit, in *In re Long*, 06-6252. On March 4, 2008, the United States Court of Appeals for the Sixth Circuit issued its ruling in *In re Long*, --- F.3d ---, 2008 WL 564798 (6<sup>th</sup> Cir. March 4, 2008). The parties are in agreement that the ruling of the United States Court of Appeals in the Long decision is dispositive of the issues in both appeals. Accordingly, the parties agree that AmeriCredit is entitled to an allowed unsecured claim for the remaining deficiency balance on its account.

Further, the parties agree that this matter should be remanded to the United States Bankruptcy Court for the Eastern District of Tennessee for proceedings consistent with this Agreed Judgment.

Based upon the foregoing representations of the parties, the United States Court of Appeals for the Sixth Circuit's holding in *In re Long*, ---F.3d. ---, 2008 WL 564798 (6<sup>th</sup> Cir. March 4, 2008), and the entire record in this matter, it is **ORDERED** as follows:

1. Judgment is hereby entered reversing the Order of the United States Bankruptcy Court for the Eastern District of Tennessee entered on January 9, 2008, which overruled the objection to confirmation filed by AmeriCredit and held that the debtors could surrender their vehicle in full satisfaction of AmeriCredit's claim under 11 U.S.C. §1325(a)(5) as amended by

the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), effective on October 17, 2005;

2. AmeriCredit shall have an allowed unsecured claim for the deficiency balance on its account; thereby reversing the order of the United States Bankruptcy Court of the Eastern District of Tennessee entered by the Court on January 9, 2008; and

3. This matter is hereby remanded to the United States Bankruptcy Court for the Eastern District of Tennessee for proceedings consistent with this Agreed Judgment.

IT IS SO ORDERED.

s/ Thomas A. Varlan  
UNITED STATES DISTRICT JUDGE

Approved for entry:

/s/ Christopher M. Kerney  
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